

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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JON ANDREW WEISS,

Case No. 14-CV-3142 (DSD/JJK)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

CAROLYN W. COLVIN, Acting  
Commissioner of Social Security,

Defendant.

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Plaintiff Jon Andrew Weiss brought this action on August 12, 2014, seeking review of the denial of his claim for social security benefits. He also applied to proceed *in forma pauperis* (“IFP”) in this litigation. In an order dated August 21, 2014, this Court denied Weiss’s IFP application, noting that Weiss was not financially eligible for IFP status. Weiss was also ordered to pay the full filing fee for this lawsuit within 20 days after the date of that order — that is, by September 10, 2014 — failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Weiss has not paid the filing fee. In fact, since filing his original complaint on August 12, 2014, Weiss has not corresponded with the Court at all. It is therefore now recommended — in accordance with the Court’s prior order in this case — that Weiss be deemed to have abandoned this action and that this case be dismissed without prejudice pursuant to Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

### RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

Date: September 29, 2014

s/ Jeffrey J. Keyes

JEFFREY J. KEYES

United States Magistrate Judge

### NOTICE

Under D. Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **October 13, 2014**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within fourteen days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A district judge shall make a de novo determination of those portions of the Report to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Eighth Circuit Court of Appeals.